

REMARKS

This amendment is submitted in response to the final office action dated November 2, 2006. Reconsideration and allowance of claims is requested. Claims 14-18 and 20-22 were objected to because of certain informalities. These informalities have since been corrected. Claims 1-3, 7-9, 14, 16, 17, 22, 23, and 25 are rejected under 35 USC §102(e) as being anticipated by Master, et al. (US Pub. 2002/0138716). The Examiner acknowledges that the reference and the instant application have a common assignee, but notes that the reference was published prior to the filing date of the provisional application. The Examiner further rejects claims 4-6 and 18, 20 and 21 as obvious over Master '716 in view of Fallside, et al. (US Patent 6,326,806). These rejections are respectfully traversed.

In order to conclude the prosecution of this application, Applicant has amended the claims as follows. Claims 1, 9 and 14 now include the limitation of claim 20, which the Examiner concedes is not taught by Master. These changes have eliminated the rejection under 35 USC §102(e).


The remaining claims in the office action are rejected under 35 USC §103(a). However, in view of the fact that the Master reference, which is part of the rejection under 35 USC §103, was commonly owned with the present application at the time of invention, Applicant hereby invokes the benefits of 35 USC §103(c) which states that "subject matter developed by another person qualifies as prior art only if one or more of subsections (e), (f) and (g) of §102 of this title should not preclude patentability. . . ."

The Master publication fulfills part of this requirement by virtue of the fact that they were commonly owned. Further, Applicant claims the benefit of the priority of provisional application 60/415,320, filed September 30, 2002 and incorporated by reference in the present application. The relationship between the present application and the provisional application is immediately apparent from a comparison of the Fig. at page 37 of the provisional application and Fig. 6 of the present application. Fig. 6 is a block diagram of an embodiment of a PSN node operable as either a K-node or a PSN node in accordance with an embodiment of the present invention, and is substantially identical to the figure at page 37. Further, Figures 3 and 4 of the present application

can be seen to be substantially based on the figure at page 37 as well as the figure at page 5 of the present application. In view of these substantial and significant relationships between the provisional application figures and the figures of the present application, as well as the extremely detailed specification of the provisional application, Applicants submit that the provisional application supports the claims of the present application. Since that provisional application was filed only four days after the publication of the Master '716 application, the Master reference is only good as a reference under 35 USC §102(e) and is clearly disqualified for use in an obvious type rejection under 35 USC §103(c).

In view of these clear distinctions, consideration and allowance of pending claims is respectfully requested.

Respectfully submitted,



James A. Sheridan
Registration No. 25,435
PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056
Telephone: (713) 623-4844
Facsimile: (713) 623-4846
Attorney for Applicant(s)